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EXAMINER

RAPILLO, KRISTINE K

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/749,102	<b>Applicant(s)</b> SIMPSON ET AL.	
	<b>Examiner</b> KRISTINE K. RAPILLO	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/6/2004; 9/19/2005; 6/23/2006</u> .                          | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

Claims 1 – 58 are pending.

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because the following reference characters have been used to designate a component in the application.

- Figure 11: 1006d and 1006e – “Duration”
- Figure 11: 1006e and 1006f – “Infusion Site”
- Figure 60: 5030 and 5730 - “Perform Channel Scanning Process for Old Channel”

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because the following reference characters have been used to designate more than one component of the application.

- Figure 1: Reference Character 114 - Access point (paragraph [0100]) and Wireless transceiver (paragraph [0207])
- Figure 1: Reference Character 124 – Medication (paragraph [0209]) and Container (paragraph [0209])
- Figure 3: Reference Character 108 – Network (paragraph [0172]) and Central System (paragraph [0172])
- Figure 55C: Reference Character 5584 – “Display Message Indicating a Prescription Mismatch is Detected” (paragraph [0467]) and “Rate Mismatch” (paragraph [0468]).

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

Art Unit: 3626

- Figure 1: 188c (paragraph [0425]) and 119 (paragraph [0169])
- Figure 12: 1200 (paragraph [0415])
- Figure 15: 3030 (paragraph [0427] and 3100 (paragraph [0443])
- Figure 60: 5730 (paragraph [0521]), 6000 (paragraph [0XXX]), and 6038 (paragraph [0XXX]).

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- Figure 1: 118b and 130
- Figure 3: 118b
- Figure 4: 314
- Figure 6: 524 and 310
- Figure 8: 560f
- Figure 11: 1008c-e, 1012e, and 520a-e
- Figure 13: 1310 and 1320
- Figure 14: 1410 and 1430
- Figure 15: 1570
- Figure 18: 1872 and 1878
- Figure 55B: 5566, 5586, and the title of drawing "Figure 55B".

### ***Specification***

5. The disclosure is objected to because of the following informalities: The reference numbers used throughout the specification are not associated with the figures they are attached to leading to a lack of clarity. In addition, the lengthy specification has not been checked to the extent necessary to determine the presence of all possible errors. Applicant's cooperation is requested in correcting any errors of which Applicant may become aware in the specification. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1 – 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, independent claim 1 is directed toward both an apparatus and the method steps of using the apparatus, and therefore is considered to be indefinite under 35 U.S.C. 112, second paragraph - see *Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990). For example, claim 1 contains the following language: “a method for executing at least one of an alarm or an alert escalation process within a healthcare system”. Claims 2 – 36 are replete with the same or similar language and are therefore rejected under the same rationale.

***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 1 – 36 are rejected under 35 U.S.C. 101 because the claim is directed to neither a “process” nor a “machine”, but rather overlaps two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only, (see *Id.* at 1551). For example, claim 1 contains the following language: “a method for executing at least one of an alarm or an alert escalation process within a healthcare system”. Claims 2 – 36 are replete with the same or similar language and are therefore rejected under the same rationale.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3626

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 53 – 58 are rejected under 35 U.S.C. 102(e) as being anticipated by Reuss et al. (U.S. Patent Number 6,364,834), hereinafter Reuss.

In regard to claim 53, Reuss teaches a system for escalating an alarm or alert condition, comprising:

- a medical device having an alarm/alert module that identifies the existence of at least one of an alarm or alert condition (column 15, lines 28 – 40);
- a processor having software that receives a signal from the alarm/alert module relating to the alarm or alert condition, the processor further having a timer module that sets a timer limit (column 15, lines 41 – 47);
- a first clinician's device having a receiver that receives an alarm or alert condition signal from the processor, the first clinician's device further having a display to display text or an icon representative of the alarm/alert condition signal, and a speaker to provide an audible alarm or alert representative of the received alarm/alert condition signal (column 15, lines 31 – 40); and,
- wherein the processor escalates the alarm or alert condition signal if no response to the alarm or alert condition signal is received from either an input device at the first clinician's device or an input device at the medical device within the timer limit (column 5, lines 56 – 59) where Reuss discloses a system which contacts a secondary physician or health care provider if the primary physician has not responded to the alarm in a predetermined time.

In regard to claim 54, Reuss teaches a system of claim 53, wherein the receiver on the first clinician's device is a wireless receiver (column 16, lines 35 – 44).

Art Unit: 3626

In regard to claim 55, Reuss teaches a system of claim 53, wherein the processor has a memory, the memory storing preconditions (column 15, lines 41 – 47).

In regard to claim 56, Reuss teaches a system of claim 53, wherein the preconditions comprise at least one of a clinician and a patient association (column 4, lines 15 -21), an association for the patient and a medical device (column 4, lines 15 -21), an association for the clinician and the clinician's device (column 5, lines 14 –17).

In regard to claim 57, Reuss teaches a system of claim 53, further comprising a transmitter that sends the alarm or alert condition signal from the processor to the receiver of the first clinician's device (column 4, lines 55 – 60).

In regard to claim 58, Reuss teaches a system of claim 53, wherein the transmitter sends the alarm or alert condition signal to from the processor to a second clinician's device when no response to the alarm or alert condition signal is received from either an input device at the first clinician's device or an input device at the medical device within the timer limit (column 9, line 65 through column 10, line 5).

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 1 – 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss in view of Dempsey et al. (U.S. Patent Number 6,057,758), hereinafter Dempsey.

Art Unit: 3626

In regard to claim 1, Reuss teaches a method for executing at least one of an alarm or an alert escalation process within a healthcare system comprising the steps of:

- generating a signal that at least one of an alarm or an alert condition exists for a specific patient (column 9, lines 33 – 37);
- transmitting the signal relating to the alarm or alert condition to a first clinician's device (column 16, lines 58 – 61);
- indicating the alarm or alert condition on the clinician's device (column 16, lines 62 – 66); and,
- escalating the signal if a response to the alarm or alert condition is not received prior to a predefined timer limit (column 9, line 62 through column 10, line 5).

Ruess fails to teach a method comprising operating a timer.

Dempsey teaches a method comprising operating a timer (Figure 8 and column 13, lines 14 – 15).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method comprising operating a timer as taught by Dempsey into the method taught by Reuss with the motivation of allowing a health care provider a tool to receive prompt medical attention, based on an out of tolerance reading from a medical device, in a timely manner by alerting a health care provider (column 6, lines 49—65).

In regard to claim 2, Reuss teaches a method of claim 1, wherein the step of transmitting the signal to the first clinician's device comprises sending a wireless signal to the first clinician's device (column 12, lines 13 – 15).

In regard to claim 3, Reuss teaches a method of claim 1, wherein the step of transmitting the signal to the first clinician's device comprises sending the signal to one of a mobile phone, a pager, an e-mail address, an instant messaging receiver or a conventional telephone (column 15, lines 55 – 60).

In regard to claim 4, Reuss teaches a method of claim 1, wherein the step of transmitting the signal to the first clinician's device comprises sending the signal simultaneously to one of a mobile phone, a pager,

Art Unit: 3626

an e-mail address, an instant messaging receiver or a conventional telephone (column 13, line 64 through column 14, line 1 and column 15, lines 55 - 60).

In regard to claim 5, Reuss teaches a method of claim 1, further comprising the step of transmitting the signal to a charge clinician (Column 5, lines 54 – 64). Reuss teaches a method in which a first signal is sent to a primary health care provider. If no response, a signal is sent to an alternative recipient. Alternative recipients encompass "charge clinicians" as well as other health care providers.

In regard to claim 6, Reuss teaches a method of claim 1, wherein the signal of the alert or alarm condition transmitted to the clinician's device comprises at least one of a condition description, a time, a date, a clinician identification, a patient name, a room identification, a bed identification and a prescription (column 3, lines 40 – 44).

In regard to claim 7, Reuss teaches a method of claim 1, wherein the step of escalating the signal comprises providing a visual warning on the clinician's device (column 8, lines 61 – 62).

In regard to claim 8, Reuss teaches a method of claim 7, wherein the visual warning is provided in at least one of a text or symbol warning on the clinician's device (column 16, lines 62 – 64).

In regard to claim 9, Reuss teaches a method of claim 1, wherein the step of indicating the alarm or alert condition comprises providing a visual and audible warning at the clinician's device (column 8, lines 61 – 62).

In regard to claim 10, Reuss teaches a method of claim 9 of providing a visual or audible alarm.

Reuss fails to teach a method further comprising the step of allowing the audible signal on the clinician's device to be silenced.

Art Unit: 3626

Dempsey teaches a method comprising the step of allowing the audible signal to be silenced on the clinician's device (Figure 8 and column 13, lines 14 – 23).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the step of allowing the audible signal on the clinician's device to be silenced as taught by Dempsey with the motivation of allowing a health care provider the means to respond to an alarm (column 7, lines 53 – 62). Dempsey discloses a method in which silencing (or clearing) an alarm sends a response to the central computer and/or patient's monitor.

In regard to claim 11, Reuss teaches a method of claim 1, wherein the step of indicating the alarm or alert condition comprises providing a vibration notification (column 15, lines 31 – 40).

In regard to claim 12, Reuss teaches a method of claim 1, further comprising the step of suspending the alarm or an alert escalation process following a response within the timer limit (column 5, lines 3 – 5).

In regard to claim 13, Reuss teaches a method of claim 12, wherein the response comprises at least one of responding on the clinician's device or responding at a medical device exhibiting the alarm or alert condition (column 16, lines 64 – 66). Reuss discloses responding via a remote access device such as a pager (column 16, lines 58 – 60).

In regard to claim 14, Reuss teaches a method of claim 1, wherein the step of escalating the signal if a response to the indicated condition is not received prior to a predefined timer limit (column 9, line 59 through column 10, line 5).

In regard to claim 15, Reuss teaches a method of claim 1, wherein the step of escalating the signal further comprises the step of transmitting the signal to a second clinician's device (column 9, line 59 through column 10, line 5).

Art Unit: 3626

In regard to claim 16, Reuss teaches a method of claim 15, further comprising the step of suspending the alarm or an alert escalation process for that specific alarm or alert condition following a response (column 5, lines 3 – 5).

In regard to claim 17, Reuss teaches a method of claim 16, wherein the response comprises at least one of responding on either the first or second clinician's device, or responding at a medical device exhibiting the alarm or alert condition (column 16, lines 64 – 66). Reuss discloses responding to an alarm/alert via a pager; the process of responding to an alarm or alert is the same regardless of who is responding (i.e. first or second clinician) - column 16, lines 58 – 60.

In regard to claim 18, Reuss teaches a method of claim 1, further comprising the step of clearing all notifications when a response is provided at the medical device (column 10, lines 17 – 20).

In regard to claim 19, Reuss teaches a method of claim 1, further comprising the step of determining if the first clinician's device is active (column 9, line 59 through column 10, line 5). Reuss discloses a method of contacting an alternative recipient if a response from a primary recipient is not generated within a predefined time period, therefore, the device of the primary recipient can be deemed inactive.

In regard to claim 20, Reuss teaches a method of claim 19, further comprising the step of transmitting the signal to a second clinician's device if the first clinician's device is not active (column 9, line 65 through column 10, line 2). The process of transmitting a signal to a recipient is the same regardless of the recipient. The rationale for the rejection of claim 20 can be found in the rejection of claim 19.

In regard to claim 21, Reuss teaches a method of claim 19, further comprising the step of transmitting the signal to a charge clinician if the first clinician's device is not active (column 9, line 65 through column 10, line 2). The process of transmitting a signal to a recipient is the same regardless of the recipient. The rationale for the rejection of claim 20 can be found in the rejection of claim 19.

In regard to claim 22, Reuss teaches a method of claim 1, further comprising the step of determining whether communication to the first clinician's device is lost (column 9, line 65 through column 10, line 2). Lost communication of a primary recipients device would initiate the alarm/alert signal to be transmitted to an alternative recipient as disclosed by Reuss (column 9, line 65 through column 10, line 5).

In regard to claim 23, Reuss teaches a method of claim 22, further comprising the step of transmitting the signal to a second clinician's device if communication to the first clinician's device is lost (column 9, line 65 through column 10, line 2). ). Reuss discloses a method of contacting an alternative recipient if a response from a primary recipient is not generated within a predefined time period, therefore, the communication to the device of the primary recipient can be deemed lost. The process of transmitting a signal to a recipient is the same regardless of the recipient.

In regard to claim 24, Reuss teaches a method of claim 23. Reuss fails to teach a method further comprising the step of terminating the alarm or alert condition on the clinician's device when the condition is resolved.

Dempsey teaches a method further comprising the step of terminating the alarm or alert condition on the clinician's device when the condition is resolved (Figure 8 and column 13, lines 14 - 24).

The motivation to combine the teachings of Reuss and Dempsey is discussed in the rejection of claim 10 and incorporated herein.

In regard to claim 25, Reuss teaches a method of claim 1, further comprising the steps of:

- generating another signal relating to the second alarm or alert condition that a second at least one of an alarm or an alert condition exists for the same patient (column 9, lines 33 – 37): Reuss discloses medical devices, such as respiratory rates, which are monitored over time to generate a trend analysis. Thus multiple alarm/alerts for an individual patient may be generated as the

Art Unit: 3626

method of generating a signal is the same regardless of the number of alarms/alerts generated for an individual patient;

- transmitting the signal to the first clinician's device (column 16, lines 58 – 61);
- indicating the second alarm or alert condition on the clinician's device (column 16, lines 62 – 66);
- escalating the signal relating to the second alarm or alert condition if a response to the second alarm or alert condition is not received prior to a predefined timer limit (column 9, line 62 through column 10, line 5).

Reuss fails to teach a method comprising the steps of operating a timer.

Dempsey teaches a method comprising the steps of operating a timer (Figure 8 and column 13, lines 13 – 14).

The motivation to combine the teachings of Reuss and Dempsey is discussed in the rejection of claim 1 and incorporated herein.

In regard to claim 26, Reuss teaches a method of claim 25, wherein the step of escalating the signal relating to the second alarm or alert condition further comprises the step of transmitting the signal to a second clinician's device (column 12, lines 13 – 15). The process of transmitting a second alarm/alert to a second clinician is the same as the process of a first alarm to a first clinician. The steps to perform the method will not change regardless of the number of alarms generated or the number of providers.

In regard to claim 27, Reuss teaches a method of claim 1, further comprising the steps of:

- generating another signal that a second at least one of an alarm or an alert condition exists for a different patient (column 16, lines 2 – 15);
- transmitting the signal to the first clinician's device (column 16, lines 58 – 61);
- indicating the second alarm or alert condition on the clinician's device (column 16, lines 62 – 66);
- escalating the signal if a response is not received prior to a predefined timer limit (column 9, line 62 through column 10, line 5).

Art Unit: 3626

Reuss fails to teach a method comprising the step of operating a timer.

Dempsey teaches a method comprising the steps of operating a timer (column 13, lines 13 – 14 and Figure 8).

The motivation to combine the teachings of Reuss and Dempsey is discussed in the rejection of claim 1 and incorporated herein.

In regard to claim 28, Reuss teaches a method of claim 27, wherein the step of escalating the signal further comprises the step of transmitting the signal to a second clinician's device (column 12, lines 13 – 15).

In regard to claim 29, Reuss teaches a method of claim 1, wherein the alarm or alert condition signal originates at a medical device (column 7, lines 28 – 31).

In regard to claim 30, Reuss teaches a method of claim 29, further comprising the step of providing a communication lost message on the clinician's device when communication from the server or medical device is lost (column 9, line 62 through column 10, line 5).

In regard to claim 31, Reuss teaches a method of claim 1, wherein the clinician's device is a personal digital assistant (column 15, lines 55 – 60).

In regard to claim 32, Reuss teaches a method of claim 2, wherein the wireless signal is a wireless communication link that operates within a radio frequency (column 13, line 59 through column 14, line 1).

In regard to claim 33, Reuss teaches a method of claim 1.

Reuss fails to teach a method wherein there is a many-to-many relationship between first clinicians and patients.

Art Unit: 3626

Dempsey teaches a method wherein there is a many-to-many relationship between first clinicians and patients (column 8, lines 47 – 55).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method wherein there is a many-to-many relationship between first clinicians and patients as taught by Dempsey with the motivation of allowing a physician or other health care provider the means of remotely monitoring the health status of patients in their care (column 4, lines 40 - 54).

In regard to claim 34, Ruess teaches a method of claim 1, wherein there is a many-to-many relationship between first clinicians and charge clinicians (column 5, lines 59 – 63).

In regard to claim 35, Ruess teaches a method of claim 12, further comprising the step of recording data concerning the alarm or alert condition (column , lines 15 – 18).

In regard to claim 36, Ruess teaches a method of claim 12, wherein the data recorded comprises at least one of information about the alarm or alert, an identification of the clinician responsible for responding to the alarm or alert, and a time of the alarm or alert condition (column 5, lines 49 – 54).

In regard to claim 37, Ruess teaches a method for executing at least one of an alarm or an alert escalation process within a healthcare environment comprising the steps of:

- generating a signal that at least one of an alarm or an alert condition exists for a specific patient (column 9, lines 33 – 37);
- transmitting the signal relating to the alarm or alert condition to a first clinician's device (column 16, lines 58 – 61);
- indicating the alarm or alert condition on the clinician's device (column 16, lines 62 – 66);
- transmitting the signal relating to the alarm or alert condition to a second clinician's device (column 9, line 62 through column 10, line 5).

Ruess fails to teach a method comprising the step of operating a timer.

Art Unit: 3626

Dempsey teaches a method comprising the step of operating a timer (Figure 8 and column 13, lines 14 - 15).

The motivation to combine the teachings of Reuss and Dempsey is discussed in the rejection of claim 1 and incorporated herein.

In regard to claim 38, Reuss teaches a method of claim 37, wherein the clinician's devices are wireless personal digital assistants (column 15, lines 55 – 60).

In regard to claim 39, Reuss teaches a method of claim 37, wherein the step of transmitting the signal relating to the alarm or alert condition to a second clinician's device is conducted if a response to the alarm or alert condition is not received prior to a predefined timer limit (column 9, line 65, through column 10, line 5).

In regard to claim 40, Reuss teaches a method of claim 37, wherein the step of transmitting the signal relating to the alarm or alert condition to a second clinician's device is conducted if the first clinician's device is not active (column 9, line 65 through column 10, line 2).

In regard to claim 41, Reuss teaches a method of claim 37, wherein the step of transmitting the signal relating to the alarm or alert condition to a second clinician's device is conducted if communication to the first clinician's device is lost (column 9, line 65 through column 10, line 2).

In regard to claim 42, Reuss teaches a method of claim 37, further comprising the step of transmitting the signal to a charge clinician (column 9, line 65 through column 10, line 2).

In regard to claim 43, Reuss teaches a method of claim 37, further comprising the step of checking preconditions prior to transmitting the signal to the first clinician's device (column 3, lines 35 – 44).

Art Unit: 3626

In regard to claim 44, Reuss teaches a method of claim 43, wherein the step of checking preconditions comprises at least one of the steps of:

- associating the patient with a medical device (column 4, lines 15 – 21);
- associating the patient with a clinician and identifying the clinician as a first clinician (column 4, lines 15 – 21);
- associating the first clinician with a clinician's device (column 5, lines 14 – 17); and,
- establishing a relationship between the patient, the medical device, the first clinician and the first clinician's device (column 5, lines 25 – 32).

In regard to claim 45, Reuss teaches a method of claim 37, further comprising the step of providing for a charge clinician to enable the escalation process (column 5, lines 56 – 63).

In regard to claim 46, Reuss teaches a method of claim 37. Reuss fails to teach a method further comprising the step of providing for a charge clinician to disable the escalation process.

Dempsey teaches a method further comprising the step of providing for a charge clinician to disable the escalation process (column 13, lines 14 – 23).

The motivation to combine the teachings of Reuss and Dempsey is discussed in the rejection of claim 10 and incorporated herein.

In regard to claim 47, Reuss teaches a method of claim 37, further comprising the step of checking preconditions prior to transmitting the signal to the second clinician's device (column 3, lines 35 – 44).

In regard to claim 48, Reuss teaches a method of claim 47, wherein the step of checking preconditions comprises the step of determining if a second clinician is assigned (column 5, lines 59 - 63).

Art Unit: 3626

In regard to claim 49, Reuss teaches a method of claim 37. Reuss fails to teach a method further comprising the step of terminating the signal relating to the alarm or alert condition to the clinician's devices after the alarm or alert condition is cleared.

Dempsey teaches a method further comprising the step of terminating the signal relating to the alarm or alert condition to the clinician's devices after the alarm or alert condition is cleared (Figure 8 and column 13, lines 14 – 23).

The motivation to combine the teachings of Reuss and Dempsey is discussed in the rejection of claim 10 and incorporated herein.

In regard to claim 50, Reuss teaches a method of claim 37, wherein the step of indicating the alarm or alert condition on the clinician's device comprises providing for setting an audible alarm (column 8, lines 61 – 62).

In regard to claim 51, Reuss teaches a method of claim 50. Reuss fails to teach a method further comprising the step of silencing the audible alarm when an acknowledgment is received from the clinician's device.

Dempsey teaches a method further comprising the step of silencing the audible alarm when an acknowledgment is received from the clinician's device (column 13, lines 14 – 23) where clearing the alarm can be interpreted as a form of silencing the alarm.

The motivation to combine the teachings of Reuss and Dempsey is discussed in the rejection of claim 10 and incorporated herein.

In regard to claim 52, Reuss teaches a method of claim 37. Reuss fails to teach a method further comprising the step of terminating the escalation process for the specific alarm or alert condition after the condition is cleared at a medical device exhibiting the alarm or alert condition.

Art Unit: 3626

Dempsey teaches a method further comprising the step of terminating the escalation process for the specific alarm or alert condition after the condition is cleared at a medical device exhibiting the alarm or alert condition (column 13, lines 14 – 23).

The motivation to combine the teachings of Reuss and Dempsey is discussed in the rejection of claim 10, and incorporated herein.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- Stutman et al. (U.S. Patent Number 5,416,695) teaches a method and apparatus for alerting patients and medical personnel of emergency medical situations using a wireless link. An automatic alarm is generated, and transmitted to a physician and/or patient concerning a serious medical condition when certain tolerance limits are reached.
  - Lebel et al. (U.S. Publication Number 2002/0016568 A1) teaches a microprocessor controlled medical apparatus with a hand held communication device. Lebel is specifically geared towards alerts and alarms associated with implantable medical devices.
  - Mault (U.S. Publication Number 2001/0044688 A1) teaches a medical monitoring system consisting of a sensor system, computing device, communication network, server, physician computer, and remote computing device. The invention monitors a patient over a period of time for specific physiological parameters (i.e. temperature). The information is relayed to a computer system, where it is charted in graphical form for review.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3626

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KKR

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626